NOTES OF CASES.

Criminal Law—Former Jeopardy—A Self-Discharged Jury.—A novel scheme, which, if it were not unlawful, would appeal to juries unable to agree, was adopted after an unsuccessful attempt to reach a verdict in a South Carolina case—a prosecution in the mayor's court in the town of Cheraw of C. L. McLeod and L. H. McLeod for violation of an ordinance.

After the case was submitted to the jury, the mayor, attorneys, and spectators left the room, and the jury proceeded to consider the evidence. After a more or less lengthy deliberation, they, of their own accord, dispersed. To allay possible anxiety as to the cause of their mysterious disappearance they left in the room a paper bearing the following legend: "Being unable to agree in the case of C. L. McLeod, we have adjourned." The mayor accordingly ordered a mistrial.

On the subsequent trial of L. H. McLeod the defendant pleaded former jeopardy, but was convicted. An appeal resulted in an affirmance of the conviction. Town of Cheraw *v.* McLeod, 88 Southeastern Reporter, 6.

Judge Watts, in his opinion for the Supreme Court, says: "The fourth exception raises the point: Could L. H. McLeod be put on trial again after the action of the jury at former trial, and was there error in not holding that the action of the jury resulted in an acquittal, he being once in jeopardy? This exception must be overruled. There was no action on the part of the court that in any manner affected L. H. McLeod's rights. They were not discharged by the court, state's counsel, or any person in authority, without lawful cause. If they had been so discharged the defendant might have taken advantage of this, and relied upon plea of former jeopardy, but in this case the jury discharged themselves. They were guilty of misconduct and contempt of court in escaping as they did, and could have been punished for contempt of court, but the mayor could not have summoned and reassembled them for the purpose of making them consider again the case and reach a verdict. The law has been well settled in this state, from the time of the case of State *v.* McKee, 1 Bailey, 651, 21 Am. Dec. 499, down to the present time."

Fee-Splitting with Collection Agency—Attorney and Client—Conduct of Attorney.—A New York lawyer may not promise or give to a layman any part of fees received for placing in his hands demands requiring legal suit.—Penal Law, § 274. A recent decision, In re Newman, 158 New York Supplement, 375, includes among the prohibited contracts, agreements with Collection Agencies to sue on claims held by them. Respondents contended that in prosecuting

the actions he was in reality acting in the interest of the Collection Company which agreed to allow him half of the fees charged by it to its customers.

"The difficulty is," says Judge Clarke who delivered the opinion of the Supreme Court, Appellate Division, First Department, "that in the court proceedings which he instituted he did appear as attorney of record for the individuals who owned the claims, and as such attorney he prosecuted, not the claims of the agency, but of the individuals, and, as such attorney, he recovered and collected judgments, including costs. So far as the court proceedings were concerned, he was the attorney for the plaintiffs in the action which he instituted and prosecuted, and they were his clients. Whatever way we look at it, it is clear that there was a splitting of the fees between an attorney and the person or party not an attorney, and not competent to practice law, for legal services rendered to a third person, whose attorney of record he was, and with whom the relation of attorney and client legally existed."

Master and Servant—Supremacy of Compensation Act over Other Remedy.—According to the decision of the Washington Supreme Court, in Peet *v.* Mills, 136 Pacific Reporter, 685, the Workmen's Compensation Act of that state superseded all former statutes relative to the recovery by a servant for injuries occurring in the course of his employment, and no existing law gives the employee a right of action for such injuries against any person other than his employer.

The same question arose in Northern Pacific Railway Company *v.* Mary A. Meese and the same statute was construed. The case was instituted in the United States District Court of Washington, W. D. (20 Federal Reporter, 222). Benjamin Meese, while engaged in his duties as employee of a brewing concern, was killed through the alleged negligence of the railroad company. Demurrer to the complaint on the ground that the Workmen's Compensation Act gave a right of action against the master only was sustained. This judgment was reversed by the United States Circuit Court of Appeals, 211 Federal Reporter, 254.

The United States Supreme Court in 36 Supreme Court Reporter, 223, reverses the holding of the latter court, and upholds the ruling of the District Court, Justice McReynolds stating: "It is settled doctrine that federal courts must accept the construction of a state statute deliberately adopted by its highest court."

The opinion of the Washington Supreme Court in the Peet Case, supra, is quoted at length. An excerpt therefrom follows:

"By this appeal, we are again called upon to review the Workmen's Compensation Act of 1911 (Laws 1911, c. 74, p. 345, 3 Rem. & Bal.